

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

JIHAD SHAHADDAH, #1046339,

Petitioner,

v.

CIVIL ACTION NO. 2:19cv185

HAROLD W. CLARKE, DIRECTOR,
DEPARTMENT OF CORRECTIONS
OF VIRGINIA,

And

COFFEEWOOD CORRECTIONAL CENTER,

Respondents.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition raises a number of constitutional and statutory claims related to the sentence Petitioner received in 2016 as a result of his conviction for statutory burglary in Arlington County Circuit Court. Although Petitioner was originally sentenced to serve ten years with six years suspended, his sentence was modified to an active sentence of ten years as a result of his enrollment and participation in a substance abuse program. The court further directed that upon completion of the program, Petitioner could request another motion to reconsider his sentence. Because Petitioner was involuntarily discharged from the program and was denied admission into other rehabilitative programs that could have potentially resulted in a reduced sentence, he now seeks reinstatement of his original sentence of ten years with six years suspended.

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed December 27, 2019 recommends dismissal of the petition as being time-barred. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On January 15, 2020, the court received Petitioner's Objections to the Report and Recommendation. The Respondent filed no response to the objections and the time for responding has now expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed December 27, 2019. It is therefore ORDERED that Respondent's Motion to Dismiss is GRANTED and Petitioner's petition is DENIED and DISMISSED with prejudice.

Finding that the basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). **If Petitioner intends to seek a**

certificate of appealability from the Fourth Circuit, he must do so within thirty days from the date of this Order. Petitioner may seek such a certificate by filing a written Notice of Appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is directed to mail a copy of this Final Order to Petitioner and to provide an electronic copy of the Final Order to counsel of record for Respondent.



Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

2/7, 2020